

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

UNITED STATES OF AMERICA

v.

ABDIFATAH ADAN

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NO. 3:10-00260

JUDGE HAYNES

*ON DENIAL*  
*For the reasons*  
*stated in open court,*  
*this motion is DENIED.*

**GOVERNMENT'S MOTION IN LIMINE REGARDING LAY WITNESS TESTIMONY**  
**ON AGE AND MOTION TO RECALL TEACHERS**

*Lyle J. Haynes*  
*4-16-12*

Comes now, the United States, by and through the undersigned, and respectfully moves this Honorable Court for an order allowing the Government to present lay witness testimony regarding Jane Doe Two's (JD2) age and to recall its witnesses who are teachers. In support of its motion, the Government states the following:

The law-of-the-case doctrine "merely expresses the practice of courts generally to refuse to reopen what has been decided, not a limit to their power." ... A court has the power to revisit prior decisions of its own in any circumstance. Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 817, 108 S.Ct. 2166, 2178 (1988); United States v. Todd, 920 F.2d 399, 403 (6<sup>th</sup> Cir. 1990). The doctrine of the law of the case, therefore, does not foreclose a court from reconsidering issues in a case previously decided by the same court or another court. Id.

Federal Rules of Evidence 701 allows a non-expert witness to express an opinion "rationally based on the perception of the witness" which is "helpful to ... the determination of a fact in issue." "The trial court has broad discretion to determine whether a lay witness is